



NEWBY VARIANCE REQUEST

ZONING BOARD OF APPEALS

STAFF REPORT

By

Tim Johnson, MainStreet Planning Company

September 2, 2010

Applicant: Johnny Newby
555 Longshore Drive
Houghton Lake, MI

Location Of Variance: 603 South Lafayette (Southwest corner of West Oak & South Lafayette)

Variance Request: **#1.** Section 19.03B of the Zoning Ordinance states that no more than 25% of the front yard area shall be paved. **The applicant has requested a variance in order to pave 27.2%** of the front yard or approximately 99 more sq. ft. of paved area.

#2. Section 19.03D states that the width of a driveway serving a single family house shall not exceed 24 feet in width. The applicant wishes to repave an existing 36 feet wide driveway but because the driveway is in the City street right of way a permit can only be issued for a 24 feet wide driveway.

The applicant is therefore requesting a variance of 12 feet to install a new 36 feet wide driveway.

Zoning Of Parcel: R1

Size of Parcel: 74 ft. wide along South Lafayette by 132 ft. deep along West Oak Street.

Current Use: A two story single family dwelling with an attached three stall garage accessed from West Oak Street.

Adjacent Land Uses: Single family dwellings on all sides; St. Charles Catholic Church and parking lot are located to the north across West Oak Street.

COMMENTS and ANALYSIS

1. The existing driveway serves the property from West Oak Street. The portion of the driveway in the right of way (between the sidewalk and the street) is paved and is approximately 36 feet wide. This is therefore a non-conforming driveway. The applicant wishes to install new paving for the existing driveway but in order to do so the driveway must be reduced to a width of 24 feet as the repaving and the work in the City right of way is being treated as a new driveway.

The area where the vehicles are parked (between the sidewalk and the garage) is also 36 feet wide which is about the width of the garage. This parking area is gravel and is the area which the applicant wishes to pave. This gravel area, if paved, would exceed the 25 percent maximum paved front yard area of Section 19.03B by about 2.2 % and 99 sq. ft.

2. The City Engineer has prepared a sketch to illustrate how the parking area and driveway could be re-configured and paved to meet the requirements of Section 19.03. The sketch shows that it may be difficult for a vehicle to utilize the western most area in front of the garage door if the driveway and parking area are narrowed to meet the ordinance requirements.

3. The existing driveway connects to West Oak Street which is a local City street. The driveway is about 100 feet from South Lafayette.

4. The 24 feet wide maximum driveway width is standard in many Michigan communities. This width easily allows for two way vehicle movement and narrows access points onto the public street system. Wider driveways are not generally allowed as this widens the space for vehicles to enter the street creating more chances for accidents. Wider driveways also add to the amount of impervious surface and can detract from the aesthetics of a neighborhood.

5. The intent of Section 19.03 which regulates off street parking in residential zones is:

“The regulations of this section are intended to maintain an orderly appearance in the front yards of predominantly single family neighborhoods and thereby contribute to neighborhood stability and the maintenance of property values and also avoid vehicle clutter along the streetscape which can be an aesthetic nuisance to property owners and residents.”

Analysis of Variance Standards

Section 21.04 B of the Zoning Ordinance requires the **Zoning Board of Appeals to find that there is reasonable evidence of a practical difficulty and that all six of the conditions or standards listed in this section exist.**

21.04 B. 1

That there are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties in the same zoning district; Exceptional or extraordinary circumstances or conditions include:

- a. exceptional narrowness, shallowness or shape of a specific property on the effective date of this chapter; or*
- b. by reason of exceptional topographic conditions or other extraordinary situation on the land, building or structure; or*
- c. by reason of the use or development of the property immediately adjoining the property in question; whereby the literal enforcement of the requirements of this Ordinance would involve practical difficulties.*

The existing driveway and parking area may be unique to the neighborhood due to their size. The fact that this is a corner lot also makes the situation somewhat unique. The house and driveway and parking area were likely

established before the current zoning regulations were adopted although this would also be true for many houses in the neighborhood.

21.04 B.2

That the condition or situation of the specific piece of property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for such conditions or situations.

There are very few, if any, 36 feet wide driveways and parking areas in the neighborhood so granting the variance is not likely to lead to the need to amend the Zoning Ordinance.

21.04 B.3

That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.

A paved driveway and parking area is common to most properties in the neighborhood. As demonstrated by the sketch from the City Engineer, however, it is possible to achieve this and still be in compliance with the Ordinance requirements thereby allowing the applicant to enjoy the same right as the neighbors. It could be argued therefore that the variance is not necessary for the preservation and enjoyment of a substantial property right.

21.04 B.4

The variance will not be significantly detrimental to adjacent property and the surrounding neighborhood.

Allowing the existing driveway and parking to be paved would improve the appearance of the property and simply maintain the existing configuration of the site

21.04 B.5

The variance will not impair the intent and purpose of this Ordinance.

The intent of the residential off street parking requirements is noted above. The existing driveway does not meet the intent of Ordinance as the 36 feet driveway is out of character with the remainder of the neighborhood. If the variance is not granted however, the applicant can simply leave the driveway in its deteriorating condition. Repaving it would at least improve its appearance.

Paving the existing parking area would exceed the allowable paved area by about 99 square feet which is not a significant amount and may maintain the value of the property which is noted in the intent. **Yet the applicant has not demonstrated the necessity of this additional paved area and how the lack of it would create a practical difficulty.**

21.04 B.6

That the immediate practical difficulty causing the need for the variance request was not created by any affirmative action of the applicant.

The practical difficulty here appears to be that in order to pave the existing driveway and parking area both of these would need to be re-configured per the City Engineer's sketch which may cost more and make it difficult for vehicles to maneuver on the site particularly when other vehicles are parked there.

The applicant wishes to pave the driveway and parking area which would improve the appearance of the property but the applicant has provided no information as to other configurations of the driveway or if a smaller paved area is possible which may reduce the practical difficulty and also achieve the intent of and compliance with Section 19.03.

SUMMARY

The variance requests appear to satisfy some of the above standards but perhaps not all of them for each of the two variances requested.

Regarding Variance Request # 1 it has not been sufficiently demonstrated that there is a practical difficulty in complying with Ordinance requirement that only 25 % of the front yard be paved. While the percentage increase is only 2.2% and the additional paved area is only 99 square feet the applicant must still provide information as to why a lesser amount of paving is not practical.

For Variance # 2 there appears to be some evidence that the variance standards are met as narrowing the driveway to 24 feet would create a practical difficulty in accessing the garage and maneuvering on the site.

The Board may choose to grant or deny both or just one of the variances. Any motion to approve or deny should include language as to how the request complies or does not comply with the standards of Section 21.04. Conditions may be attached to any variance approval.